

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

| | | |
|------------------------------|---|--------------------------------|
| ANGELA ANDERSON, ET AL. | § | |
| | § | |
| VS. | § | CIVIL ACTION NO. 7:11-cv-00147 |
| | § | |
| MEDTRONIC MINMED, INC. ET AL | § | |

DEFENDANT CONVATEC, INC.'S ORIGINAL ANSWER

ConvaTec, Inc (hereinafter "Defendant"). files this its Original Answer to Plaintiffs' Original Complaint, and would show the court as follows:

I. DISCOVERY CONTROL PLAN

1. No response is required for paragraph 1 one of the Plaintiffs' Original Complaint.

II. PARTIES AND SERVICE

2. Defendant admits the allegations contained in paragraphs 2 - 52 of the Plaintiffs' Original Complaint.

III. JURISDICTION AND VENUE

3. Defendant denies the allegations contained in paragraph 53 of the Plaintiffs' Original Complaint.
4. Defendant denies the allegations contained in paragraph 54 of the Plaintiffs' Original Complaint.
5. Defendant denies the allegations contained in paragraph 55 of the Plaintiffs' Original Complaint.

IV. STATEMENT OF FACTS APPLICABLE TO ALL COUNTS

A. Minimed Paradigm Quick-Set Infusion Sets

6. Defendant denies the allegations contained in paragraph 56 of the Plaintiffs' Original Complaint.

B. Medtronic: High Ides. Low Quality

1. What Medtronic Claims To Do

7. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegation in paragraph 57 of the Plaintiffs' Original Complaint.

2. What Medtronic Actually Does- The FDA Recall on Minimed Paradigm Quick Set Infusion Sets

8. Defendant admits the allegations contained in paragraph in paragraph 58 of the Plaintiffs; Original Complaint.

C. Plaintiffs Were Injured By Their Use of Defendants' Products

9. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 59 of the Plaintiffs' Original Complaint.

10. Defendant admits the allegations contained in paragraph 60 of the Plaintiffs' Original Complaint.

11. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 61 of the Plaintiffs' Original Complaint.

12. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 62 of the Plaintiffs' Original Complaint.

13. Defendant denies the allegations contained in paragraph 63 of the Plaintiffs' Original Complaint.

14. Defendant denies the allegations contained in paragraph 64 of the Plaintiffs' Original Complaint.

1. Angela Anderson

15. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 65 - 66 of the Plaintiffs' Original Complaint.

16. Defendant denies the allegations contained in paragraph 67 of the Plaintiffs' Original Complaint.

2. Patricia Bailey

17. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 68 - 69 of the Plaintiffs' Original Complaint.

18. Defendant denies the allegations contained in paragraph 70 of the Plaintiffs' Original Complaint.

3. Jennifer Balderas

19. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 71 - 72 of the Plaintiffs' Original Complaint.

20. Defendant denies the allegations contained in paragraph 73 of the Plaintiffs' Original Complaint.

4. Beonka Bell

20 Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 74 - 75 of the Plaintiffs' Original Complaint.

21. Defendant denies the allegations contained in paragraph 76 of the Plaintiffs' Original Complaint.

5. Benda Boston

22. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 77 - 78 of the Plaintiffs' Original Complaint.

23. Defendant denies the allegations contained in paragraph 79 of the Plaintiffs' Original Complaint.

6. Kathy Boyd, as next friend of, Gage Woolsey, minor

24. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 80 - 81 of the Plaintiffs' Original Complaint.

25. Defendant denies the allegations contained in paragraph 82 of the Plaintiffs' Original Complaint.

7. Genie Brazzeal

26. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 83 - 84 of the Plaintiffs' Original Complaint.

27. Defendant denies the allegations contained in paragraph 85 of the Plaintiffs' Original Complaint.

8. Debra Canney as representative of the estate of Kevin Bubsey, deceased; Debra Canney, individually, and on behalf of all wrongful death beneficiaries of Kevin Bubsey, deceased, including, but not limited to Debra Canney

27. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 86 - 87 of the Plaintiffs' Original Complaint.

28. Defendant denies the allegations contained in paragraph 88 of the Plaintiffs' Original Complaint.

9. Tim Costanza, as representative of the estate of Amy Costanza, deceased; Tim Costanza and Janet Costanza, individually, and as wrongful death beneficiaries of Amy Costanza, deceased

29. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 89 - 90 of the Plaintiffs' Original Complaint.

30. Defendant denies the allegations contained in paragraph 91 of the Plaintiffs' Original Complaint.

10. Douglas Dailey

30. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 92 - 93 of the Plaintiffs' Original Complaint.

31. Defendant denies the allegations contained in paragraph 94 of the Plaintiffs' Original Complaint.

11. Renee Davis, as representative of the estate of Reynard Craig Bittner, deceased; Renee Davis, individually, and on behalf of all wrongful death beneficiaries of Reynard Craig Bittner, deceased, including but not limited to Renee Davis

32. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 95 - 96 of the Plaintiffs' Original Complaint.

33. Defendant denies the allegations contained in paragraph 97 of the Plaintiffs' Original Complaint.

12. Roberta Denman

33. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 98 - 99 of the Plaintiffs' Original Complaint.

34. Defendant denies the allegations contained in paragraph 100 of the Plaintiffs' Original Complaint.

13. James Douglas

35. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 101 - 102 of the Plaintiffs' Original Complaint.

36. Defendant denies the allegations contained in paragraph 103 of the Plaintiffs' Original Complaint.

14. Samuel Eismont

37. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 104 - 105 of the Plaintiffs' Original Complaint.

38. Defendant denies the allegations contained in paragraph 106 of the Plaintiffs' Original Complaint.

15. Georgina Foulks

39. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 107 - 108 of the Plaintiffs' Original Complaint.

40. Defendant denies the allegations contained in paragraph 109 of the Plaintiffs' Original Complaint.

16. Monica Garza

41. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 110 - 111 of the Plaintiffs' Original Complaint.

42. Defendant denies the allegations contained in paragraph 112 of the Plaintiffs' Original Complaint.

17. Ray Gilpin

43. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 113 - 114 of the Plaintiffs' Original Complaint.

44. Defendant denies the allegations contained in paragraph 115 of the Plaintiffs' Original Complaint.

18. Judith Grimmett, as representative of the estate of James Grimmett, deceased; Judith Grimmett, individually, and on behalf of all wrongful death beneficiaries of James Grimmett, deceased, including, but not limited to Judith Grimmett; and Joy Perez, as next friend of Ana Cecilia Grimmett, minor, and Angelica Perez, Minor

45. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 116 - 117 of the Plaintiffs' Original Complaint.

46. Defendant denies the allegations contained in paragraph 118 of the Plaintiffs' Original Complaint.

19. Arleda Hacopian

47. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 119 - 120 of the Plaintiffs' Original Complaint.

48. Defendant denies the allegations contained in paragraph 121 of the Plaintiffs' Original Complaint

20. Steven Higgs

49. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 122 - 123 of the Plaintiffs' Original Complaint.

50. Defendant denies the allegations contained in paragraph 124 of the Plaintiffs' Original Complaint

21. Jeanene Horn

51. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 125 - 126 of the Plaintiffs' Original Complaint.

52. Defendant denies the allegations contained in paragraph 127 of the Plaintiffs' Original Complaint.

22. Stephen House

53. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 128 - 129 of the Plaintiffs' Original Complaint.

54. Defendant denies the allegations contained in paragraph 130 of the Plaintiffs' Original Complaint.

23. Angela James

55. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 131 - 132 of the Plaintiffs' Original Complaint.

56. Defendant denies the allegations contained in paragraph 133 of the Plaintiffs' Original Complaint.

24. Kayla Kendrick

57. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 134 - 135 of the Plaintiffs' Original Complaint.

58. Defendant denies the allegations contained in paragraph 136 of the Plaintiffs' Original Complaint.

25. Glendette Kennedy as representative of the estate of Christopher Summrall deceased; Glendette Kennedy, individually, and on behalf of all wrongful death beneficiaries of Christopher Summrall, deceased, including but not limited to Glendette Kennedy

59. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 137 - 138 of the Plaintiffs' Original Complaint.

60. Defendant denies the allegations contained in paragraph 139 of the Plaintiffs' Original Complaint.

26. Stacy Koch

61. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 140 - 141 of the Plaintiffs' Original Complaint.

62. Defendant denies the allegations contained in paragraph 142 of the Plaintiffs' Original Complaint.

27. Bernadette Lally

63. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 143 - 144 of the Plaintiffs' Original Complaint.

64. Defendant denies the allegations contained in paragraph 145 of the Plaintiffs' Original Complaint.

28. Cassandra Lucchese

65. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 146 - 147 of the Plaintiffs' Original Complaint.

66. Defendant denies the allegations contained in paragraph 148 of the Plaintiffs' Original Complaint.

29. Angela Miller

67. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 149 - 150 of the Plaintiffs' Original Complaint.

68. Defendant denies the allegations contained in paragraph 151 of the Plaintiffs' Original Complaint.

30. Jeff and Shanw Montgomery, as next friends of, Sylvana Montgomery, minor

69. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 152 - 153 of the Plaintiffs' Original Complaint.

70. Defendant denies the allegations contained in paragraph 154 of the Plaintiffs' Original Complaint.

31. Brenda Neisser

71. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 155 - 156 of the Plaintiffs' Original Complaint.

72. Defendant denies the allegations contained in paragraph 157 of the Plaintiffs' Original Complaint.

32. Carrie Pack

73. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 158 - 159 of the Plaintiffs' Original Complaint.

74. Defendant denies the allegations contained in paragraph 160 of the Plaintiffs' Original Complaint.

33. Tracy Parsons

75. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 160 - 161 of the Plaintiffs' Original Complaint.

76. Defendant denies the allegations contained in paragraph 162 of the Plaintiffs' Original Complaint.

34. Bob Rambo is, as representative of the estate of Bobby John Rambo, deceased; Bob Rambo and Veronica Rambo, individually, and as wrongful death beneficiaries of Bobby John Rambo, deceased

77. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 164 - 165 of the Plaintiffs' Original Complaint.

78. Defendant denies the allegations contained in paragraph 166 of the Plaintiffs' Original Complaint.

35. Michael Randolph

79. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 167 - 168 of the Plaintiffs' Original Complaint.

80. Defendant denies the allegations contained in paragraph 169 of the Plaintiffs' Original Complaint.

36. Michelle Reinhardt on behalf of Michelle Reinhardt

81. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 170 - 171 of the Plaintiffs' Original Complaint.

82. Defendant denies the allegations contained in paragraph 172 of the Plaintiffs' Original Complaint.

37. Francis Rodriguez, as representative of the estate of Norma Rodriguez; deceased; Francis Rodriguez, individually, and on behalf of all wrongful death beneficiaries of Norma Rodriguez; deceased, including, but not limited to, Francis Rodriguez, LeeAnn Rodriguez, and Francisco Rodriguez

83. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 173 - 174 of the Plaintiffs' Original Complaint.

84. Defendant denies the allegations contained in paragraph 175 of the Plaintiffs' Original Complaint.

38. Kimberly Shore, as representative of the estate of Mark Shore, deceased; Kimberly Shore, individually and as next of friend of Ava Shore, minor, and Monika Hall, as next of friend of Sydney Shore, minor, individually as wrongful death beneficiaries of Mark Shore, deceased

85. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 176 - 177 of the Plaintiffs' Original Complaint.

86. Defendant denies the allegations contained in paragraph 178 of the Plaintiffs' Original Complaint.

39. Rhonda Smith

86. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 179 - 180 of the Plaintiffs' Original Complaint.

87. Defendant denies the allegations contained in paragraph 181 of the Plaintiffs' Original Complaint.

40. Wendy Stevens

88. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 182 - 183 of the Plaintiffs' Original Complaint.

89. Defendant denies the allegations contained in paragraph 184 of the Plaintiffs' Original Complaint.

41. Aldric Summers

90. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 185 - 186 of the Plaintiffs' Original Complaint.

91. Defendant denies the allegations contained in paragraph 187 of the Plaintiffs' Original Complaint.

42. Audrey Sullivan

90. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 188 - 189 of the Plaintiffs' Original Complaint.

91. Defendant denies the allegations contained in paragraph 190 of the Plaintiffs' Original Complaint.

43. Nancy Upchurch

91. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 191 - 192 of the Plaintiffs' Original Complaint.

92. Defendant denies the allegations contained in paragraph 193 of the Plaintiffs' Original Complaint.

44. Kathleen Vaccaro as representative of the estate of Joseph Vaccaro, deceased; Kathleen Vaccaro, individually, and on behalf of all wrongful death beneficiaries of Joseph Vaccaro, deceased, including, but not limited to Kathleen Vaccaro

93. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 194 - 195 of the Plaintiffs' Original Complaint.

94. Defendant denies the allegations contained in paragraph 196 of the Plaintiffs' Original Complaint.

45. Helen White, as legal guardian, of Walter Newbern

95. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 197 - 198 of the Plaintiffs' Original Complaint.

96. Defendant denies the allegations contained in paragraph 199 of the Plaintiffs' Original Complaint.

46. Shawnta Williams

97. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 200 - 201 of the Plaintiffs' Original Complaint.

98. Defendant denies the allegations contained in paragraph 202 of the Plaintiffs' Original Complaint.

47. Cammie Wilson, as next of friend of, Chelsea Rai Schalm, minor

97. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in paragraph 203 - 204 of the Plaintiffs' Original Complaint.

98. Defendant denies the allegations contained in paragraph 205 of the Plaintiffs' Original Complaint.

V. Causes of Action

A. Count One: Strict Liability

99. Defendant denies the allegations contained in paragraphs 206 - 217 of the Plaintiffs' Original Complaint

1. Design Defect

100. Defendant denies the allegations contained in paragraphs 218 - 220 of the Plaintiffs' Original Complaint

2. Manufacturing Defect

101. Defendant denies the allegations contained in paragraphs 221 - 223 of the Plaintiffs' Original Complaint.

3. Inadequate Instructions or Warnings

102. Defendant denies the allegations contained in paragraphs 224 - 228 of the Plaintiffs' Original Complaint.

B. Count Two: Breach of Express Warranty

103. Defendant denies the allegations contained in paragraphs 229 - 234 of the Plaintiffs' Original Complaint.

C. Count Three: Breach of Implied Warranty of Fitness for a Particular Purpose

104. Defendant denies the allegations contained in paragraphs 235 - 240 of the Plaintiffs' Original Complaint.

D. Count Four: Breach of Implied Warranty of Merchantability

105. Defendant denies the allegations contained in paragraphs 241 - 245 of the Plaintiffs' Original Complaint.

E. Count Five: Negligence

106. Defendant denies the allegations contained in paragraphs 246 - 254 of the Plaintiffs' Original Complaint.

VI. PUNITIVE DAMAGES

107. Defendant denies the allegations contained in paragraphs 255 - 258 of the Plaintiffs' Original Complaint.

VII. DAMAGES APPLICABLE TO ALL COUNTS

108. Defendant denies the allegations contained in paragraphs 259 - 260 of the Plaintiffs' Original Complaint.

VIII. CONDITIONS PRECEDENT

109. Defendant admits the allegation contained in paragraph 261 of the Plaintiffs' Original Complaint.

110. No response is required for paragraphs 262 -263 of the Plaintiffs; Original Complaint.

PRAYER FOR RELIEF

111. Defendants deny they are liable to the Plaintiffs under any theory of law for any amount of damages being sought. Defendant ConvaTec, Inc. further prays that it be released,

discharged, and acquitted of the claims against it, that the Plaintiffs take nothing by reason of this suit, and for such other and further relief to which this Defendant may be justly entitled and for which it will forever pray.

Respectfully submitted,

SHEINESS, SCOTT, GROSSMAN & COHN, L.L.P.

By: /s/ Marc. A. Sheiness
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ATTORNEY FOR DEFENDANTS
CONVATEC, INC. AND UNOMEDICAL, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument has been served on all counsel of record electronically through CM/ECF, on this, the 7th day of June, 2011

/s/ Mac. A. Sheiness
MARC A. SHEINESS

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